

<b>DANIEL H. FELLOWS</b>	)	
Claimant	)	
VS.	)	
	)	
<b>THE BOEING COMPANY</b>	)	Docket No. 211,209
Respondent	)	
AND	)	
	)	
<b>AMERICAN MANUFACTURERS MUTUAL INS. CO.</b>	)	
<b>AETNA CASUALTY &amp; SURETY COMPANY</b>	)	
Insurance Carriers	)	
AND	)	
	)	
<b>KANSAS WORKERS COMPENSATION FUND</b>	)	

Claimant appeared by his attorney, Steven R. Wilson of Wichita, Kansas. Respondent and its insurance carriers appeared by their attorney, Eric K. Kuhn of Wichita, Kansas. The Kansas Workers Compensation Fund appeared by its attorney, E. L. Lee Kinch of Wichita, Kansas.

**RECORD AND STIPULATIONS**

The Appeals Board has reviewed and considered the record listed in the Award. The Appeals Board has also adopted the stipulations listed in the Award.

**ISSUES**

The sole issue to be considered on appeal is the date of accident. The Administrative Law Judge found the date of accident to be November 9, 1993. Claimant argues the date of accident should be November 1992.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the arguments, the Appeals Board finds that the Award should be affirmed.

The evidence establishes the claimant suffered an initial traumatic injury to his left hand on November 1, 1992. He thereafter favored the left hand while running a rock drill machine and instead used his right hand. When he began having trouble with his right hand, he switched back to using his left hand and the left hand worsened. The claim has been treated by the parties as a single accident and no one argues otherwise here. The symptoms included pain, weakness, and numbness and gradually went into claimant's shoulders. Claimant's condition was diagnosed by the only doctor who testified in this case, Ernest R. Schlachter, M.D., as:

"Rotator cuff tendinitis of both shoulder girdles, lateral epicondylitis of both elbows, and mild bilateral carpal tunnel syndrome."

Claimant ultimately received work restrictions on November 9, 1993. Those restrictions limited him to three hours of grasping and grabbing motions per day and also required him to keep his elbows at his sides. Claimant testified his condition had not worsened since the restrictions were imposed except for certain periods of flare-up. Claimant was not taken off work by any health care provider for complaints related to his upper extremities.

The Appeals Board concludes that claimant sustained bilateral upper extremity injuries resulting from a single initial traumatic event followed by repetitive use thereafter. The Appeals Board also finds that in accordance with the principles of Condon v. Boeing Co., 21 Kan. App. 2d 580, 903 P.2d 775 (1995), November 9, 1993 should be the date of accident.

**AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Jon L. Frobish, dated January 8, 1997, should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of April 1997.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Steven R. Wilson, Wichita, KS  
Eric K. Kuhn, Wichita, KS  
E. L. Lee Kinch, Wichita, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director